

UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE

Gregg Blackstock

v.

Case No. 16-cv-411-LM

Adult Parole Board Executive
Assistant Andrea Goldberg and
Offender Records Administrator
Cindy Crompton

REPORT AND RECOMMENDATION

Before the Court is New Hampshire State Prison ("NHSP") inmate Gregg Blackstock's motion for default (Doc. No. [11](#)). Blackstock argues that a default should be entered against respondents for their failure to file an answer in accordance with this court's February 15, 2018 Order (Doc. No. [9](#)) ("February 15 Order") directing service of the petition upon the respondents and requiring respondents to file an answer to the petition.

"[A] default cannot be entered unless the court has both personal and subject-matter jurisdiction over the parties against whom the default judgment is sought. The court, of course, cannot have personal jurisdiction if service of process has not been properly effectuated." Sergentakis v. Channell, CIVIL ACTION NO. 16-11101-DHH, 2017 U.S. Dist. LEXIS 4742, at *1-*2, [2017 WL 129989](#), at *1 (D. Mass. Jan. 12, 2017) (citing

10A Charles Alan Wright & Arthur R. Miller, [Federal Practice and Procedure](#) § 2682 (4th ed. 2008).

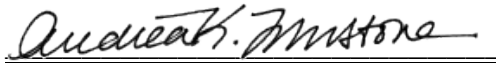
On April 11, 2018, this court entered the following
Endorsed Order (["April 11 Order"](#)) in this case:

On February 15, 2018, the court issued an Order (Doc. No. [9](#)) ("February 15 Order") directing service in this case upon the respondent, pursuant to the Agreement [on] Acceptance of Service Through no fault of either party, the court inadvertently failed to notify the AG of the pendency of this case, or to serve upon the AG the Order directing the respondents to file an answer to the petition. Accordingly, the clerk's office is directed to serve the respondent at this time as set forth in the February 15 Order. Respondent is directed to answer or otherwise respond to the petition in accordance with Admin. Order 18-1. The clerk's office is directed to send the petitioner a copy of [Admin. Order 18-1](#) along [] with a copy of this Order.

[April 11 Order](#). Since the issuance of that Order, the respondents have responded to the petition in this case by filing a motion to dismiss (Doc. No. [17](#)) and other documents (Doc. Nos. [13](#), [14](#), [15](#), [16](#)) in compliance with [Admin. Order 18-1](#).

Prior to the issuance of the April 11 Order, the respondents had not been served in this matter. The respondents were not obligated to answer or otherwise respond prior to service. Once served, the respondents filed a timely response as directed. Accordingly, the entry of default is inappropriate in this matter, and the district judge should deny Blackstock's motion (Doc. No. [11](#)) seeking such relief.

Any objections to this Report and Recommendation must be filed within fourteen days of receipt of this notice. See [Fed. R. Civ. P. 72\(b\)\(2\)](#). The fourteen-day period may be extended upon motion. Failure to file specific written objections to the Report and Recommendation within the specified time waives the right to appeal the district court's order. See [Santos-Santos v. Torres-Centeno](#), 842 F.3d 163, 168 (1st Cir. 2016).

A handwritten signature in black ink, reading "Andrea K. Johnstone", is written over a horizontal line.

Andrea K. Johnstone
United States Magistrate Judge

January 10, 2019

cc: Gregg Blackstock, pro se
Elizabeth C. Woodcock, Esq.